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Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Question of Western Sahara

Report of the Secretary-General

1. On 13 December 1996, the General Assembly adopted, without a vote, resolution 51/143 on the question of Western Sahara. The present report, which covers the period from 28 September 1996 to 11 September 1997, is submitted in pursuance of paragraph 9 of that resolution.

2. The Secretary-General, in close cooperation with the current Chairman of the Organization of African Unity (OAU), has continued to exercise his good offices with the parties concerned.

3. On 5 November 1996, the Secretary-General submitted a report[1] to the Security Council in which he informed the Council that his proposal to maintain a political office to continue the dialogue with the parties and the neighbouring countries, in the context of the settlement plan for Western Sahara,[2] had been implemented. The political office was being led by the Acting Special Representative, who had, in accordance with Security Council resolution 1056 (1996) of 29 May 1996, worked intensively to facilitate any effort to help set the parties on a course towards an agreed formula for the resolution of their differences. In addition to supporting the Acting Special Representative, the political office would assure permanent liaison with the Frente Popular para la Liberación de Saguía el-Hamra y de Río de Oro (Frente POLISARIO) in Tindouf, assist in maintaining other contacts and provide general assistance to fact-finding missions to the Territory and the Tindouf area. It would also monitor local, regional and international media and would work with the Independent Jurist in the discharge of his mandate.

4. During the period covered by the report,[1] the Acting Special Representative had travelled regularly between Rabat and the Tindouf area, striving to develop momentum in the exchange of views and proposals between the two sides. In October 1996, he had also visited Algeria and Mauritania where he had discussions with the Governments concerned, on ways to overcome obstacles to the implementation of the settlement plan, especially those aspects highlighted by the Security Council, and on other measures that could contribute to building confidence.

5. The Secretary-General recalled that, in its resolution 1056 (1996), the Security Council had reiterated that, for progress to be achieved, the two parties must have a vision of the post-referendum period. He noted that it was encouraging that on 10 October 1996, the Special Political and Decolonization (Fourth) Committee of the General Assembly had been informed that contacts had taken place between the two parties and would continue to take place and that those contacts would certainly not lose sight of the

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settlement plan, which governed the holding of the referendum.

6. The Security Council was informed that the positions of the Government of Morocco and the Frente POLISARIO regarding resumption of the identification remained irreconcilable. It was also informed that a high-level presence of the Organization of African Unity remained in the mission area to ensure continued cooperation with the United Nations Mission for the Referendum in Western Sahara (MINURSO).

7. The Secretary-General informed the Security Council that, following an initiative on the part of the Governments of Germany and the United States of America, 66 Frente POLISARIO prisoners of war in Moroccan custody had been released on 31 October 1996 with the assistance of the International Committee of the Red Cross (ICRC). The Secretary-General also recalled that in that connection, in November 1995 a total of 185 Moroccan prisoners of war had been released by the Frente POLISARIO with the assistance of ICRC and the Governments of Argentina and the United States. He expressed his appreciation for the efforts of those Member States that had assisted in the two releases.

8. During the reporting period, the Independent Jurist had continued his efforts for the release of political prisoners. After his meetings in early July with the Moroccan authorities in Rabat and representatives of the Frente POLISARIO in Las Palmas, Canary Islands, he had returned to the mission area during the last week of August. On 27 August, he had visited some of the refugee camps in the Tindouf area and had met with officials of the Frente POLISARIO and with a number of sheikhs who had provided him with useful information.

9. The Frente POLISARIO also organized a meeting between the Independent Jurist and representatives of the Association of Families of Prisoners and Disappeared Saharans (AFAPREDESA). At the meeting, representatives of the Association gave the Independent Jurist a list of persons said to have "disappeared". The Independent Jurist compared the list with data in his possession and was in the process of finalizing a list with the cooperation of AFAPREDESA, which had been asked to clarify some of its information. The Frente POLISARIO was expected to endorse the list prior to its being officially communicated, through the Acting Special Representative, to the Moroccan authorities, with whom the Independent Jurist would pursue his efforts.

10. The Office of the United Nations High Commissioner for Refugees (UNHCR) had continued to monitor developments in the region and had undertaken to review and update on a continuous basis the repatriation plan drawn up in 1991. Updates in logistical estimates had set the cost of the UNHCR repatriation project at almost $50 million. When conditions would permit, UNHCR planned to carry out a pre-registration of potential returnees, which was an essential part of the preparatory work for the repatriation operation under the settlement plan. In the meantime, the survey of water resources had been completed, but a planned drilling programme around potential repatriation sites had been put on hold.

11. UNHCR had conducted a series of missions to the Territory, Morocco and Algeria, including the refugee camps in the Tindouf area. It had held discussions with the relevant parties, all of whom had pledged their full cooperation and support. In consultations with the Acting Special Representative, it had also undertaken a number of initiatives to complement the efforts of MINURSO. In addition, it was continuing its assistance programme for the most vulnerable refugees in the camps.

12. The Security Council was further informed that, pursuant to resolution 1056 (1996), the military component, headed by Major-General José Eduardo Garcia Leandro (Portugal), had been reduced by 20 per cent, from a strength of 288 military observers in May to 230 by 1 November. The reduction had been achieved through normal rotations, with the largest reduction taking place in September when the strength was cut from 259 to 232. In spite of this reduction, it had been possible to keep the number of ground patrols at the previous level and to maintain overall operational activities through an increase in helicopter reconnaissance flights.

13. While the cease-fire continued to hold, MINURSO had noted some technical violations of it, as well as an intensification of military activity on both sides, apparently aimed at ensuring combat readiness as the end of MINURSO's mandate period approached. During August, Frente POLISARIO forces conducted live-fire exercises. The Royal Moroccan Army had also conducted air missions and rehearsed air drills from Smara airport. However, during the reporting period, both Morocco and the Frente POLISARIO had provided logistic support for MINURSO at the team sites.

14. MINURSO had made a special effort to avoid a rise in tension similar to that which had occurred towards the end of the previous mandate period, in May 1996. In that regard, both sides agreed to the Force Commander's proposal to suspend live-fire exercises with collective and heavy weapons during the months of October and November 1996.

15. The civilian police component, headed by Lieutenant-Colonel Jan Kleven (Norway), had been reduced from a high of 91 in January 1996 to 44 by the end of May, and was then cut further pursuant to the suspension of the identification process. It had been necessary to retain nine civilian police officers in order to ensure the security of equipment and computerized information in Laayoune and Tindouf.

16. In view of the indications that the parties were moving forward to find a resolution to the outstanding questions concerning the implementation of the settlement plan, and in order to allow time for further progress, the Secretary-General recommended that the mandate of MINURSO be extended for a further period of six months, until 31 May 1997. At the same time, he made it clear that the international community could not be expected to support the extension of the Mission's mandate indefinitely unless there was tangible progress towards the settlement of the question of Western Sahara.

17. In its resolution 1084 (1996) of 27 November 1996, the Security Council reiterated its commitment to the holding of a referendum in accordance with the settlement plan and expressed its support for the activities of the Acting Special Representative in continuing the dialogue. The Council requested the Secretary-General to submit an interim report by 28 February 1997 on his efforts to break the impasse blocking the implementation of the plan. It noted the beneficial effect of demonstrations of goodwill and of all contacts aimed at achieving the implementation of the plan, and it welcomed the steps taken by the parties to demonstrate goodwill and encouraged them to pursue their efforts so as to build confidence between themselves. The Council also requested the Secretary-General to propose alternative steps, in the framework of the settlement plan, should there be no meaningful progress towards removing the obstacles to its implementation, and to keep the staffing size and configuration of the various components of MINURSO under active review in order to ensure maximum efficiency and effectiveness. MINURSO's mandate was extended until 31 May 1997 and the Secretary-General was requested to submit a report by 9 May on the implementation of the resolution.

18. On 25 November 1996, the Permanent Representative of Morocco to the United Nations submitted a letter[3] to the President of the Security Council calling the attention of the members of the Council to discrepancies in connection with the settlement plan in the draft resolution which was being prepared. In Morocco's view, the draft concealed the true reasons for the impasse in the identification process and introduced elements which Morocco found incompatible with the settlement plan.

19. In his interim report of 27 February 1997,[4] the Secretary-General informed the Security Council that during the reporting period the Acting Special Representative had sought to maintain contact with the parties, visiting both Rabat and Tindouf on several occasions in December 1996 and January 1997. Both the Government of Morocco and the Frente POLISARIO had again reiterated their commitment to the settlement plan and their wish to see it implemented. However, there had been no change in their respective attitudes with respect to resuming the identification process.

20. The Secretary-General further informed the Security Council that, with respect to measures to build confidence, the Government of Morocco had again confirmed the position expressed publicly by King Hassan II in November 1996. The Frente POLISARIO had also reiterated its wish to pursue contacts but was unwilling to do so on the conditions that Morocco considered necessary.

21. Following up on the request of the Independent Jurist, on 14 January 1997, the Frente POLISARIO had provided a revised and annotated list of persons allegedly detained for political reasons in Morocco. On 16 January, the Acting Special Representative had transmitted the list officially to the Moroccan Ministry of the Interior.

22. The Security Council was further informed that since July 1996 the UNHCR field office in Tindouf had become operational, while staff from Algiers and from Headquarters had continued to conduct missions in the Tindouf area. An international staff member had been appointed for Tindouf effective 15 February 1997.

23. On 30 November 1996, Major-General Jorge Barroso de Moura (Portugal) replaced Major-General José Eduardo Garcia Leandro (Portugal) as Force Commander. The strength of the military component, after the reduction by 20 per cent, stood at 230 personnel. During the reporting period, the military component of MINURSO had continued to monitor and verify the ceasefire. Despite the reduced strength, it had proved possible to increase slightly the number of ground and air patrols. During the reporting period, Lieutenant-Colonel Jan Kleven (Norway), who became Acting Police Commissioner upon the departure of Brigadier General Walter Fallmann (Austria), continued to head the civilian police component of MINURSO.

24. Recalling that progress would only be possible if both sides committed themselves fully, in deed as well as in word, to implementing the settlement plan, the Secretary-General stressed in his report[4] that unless that happened, the

continued presence of MINURSO would be increasingly questioned. The retention of the military component at its current level was costly, since the bulk of MINURSO's expenditure related to maintaining, supporting and enabling the military observers to function in their team-sites. The Secretary-General further noted that, in the absence of progress towards a political solution as foreseen in the settlement plan, the presence of military observers alone would not by itself prevent hostilities although their withdrawal could put in jeopardy the cease-fire and seriously threaten regional stability. In the circumstances, the Secretary-General believed it essential to make every effort to move the political process forward and to identify ways, including the possibility of a new initiative, to overcome the current stalemate in implementing the settlement plan.

25. He informed the Security Council that he had been reviewing the following questions and that he intended to intensify their examination during the coming weeks so that he could present his conclusions before the expiry of MINURSO's mandate on 31 May 1997: (a) Could the settlement plan be implemented in its current form? (b) if not, were there adjustments to the settlement plan, acceptable to both parties, which would make it implementable? (c) if not, were there other ways by which the international community could help the parties resolve their conflict? In the meantime, he was considering further reductions in the staffing of MINURSO and intended to keep the situation under active review and to advise the Council accordingly.

26. In a letter dated 10 March 1997[5] transmitted to the President of the Security Council by the Permanent Representative of Morocco to the United Nations, Morocco found it regrettable that the 27 February 1997 report[4] had limited itself to stating that the identification process had stalled without mentioning the main reason for that situation. Morocco reiterated its position, which coincided fully with that of the United Nations, to defend the right of any person who could prove that he or she belonged to Western Sahara, to take part in the referendum. Morocco called upon the Security Council to take the necessary action to ensure the resumption and completion of the referendum process.

27. In his report of 5 May 1997[6] to the Security Council, the Secretary-General stated that in an effort to encourage the parties to overcome the persisting stalemate, he had on 10 March appointed Mr. James A. Baker III, former Secretary of State of the United States of America, as his Personal Envoy for Western Sahara. He had requested Mr. Baker to assess the implementability of the settlement plan, to examine ways of improving the chances of resuming its implementation in the near future and, if there were none, to advise him on other possible ways of moving the peace process forward.

28. The Permanent Representative of Morocco to the United Nations had sent a letter[7] on 19 March 1997 to the President of the Security Council transmitting a letter from the Prime Minister and Minister for Foreign Affairs and Cooperation of Morocco addressed to the Secretary-General, welcoming the appointment of Mr. James A. Baker III as the Secretary-General's Personal Envoy for Western Sahara and assuring him of Morocco's full cooperation.

29. Following consultations with the Secretary-General and preliminary discussions with the representatives of the two parties and the neighbouring countries, Algeria and Mauritania, in New York on 2 April, the Personal Envoy undertook an exploratory mission to the region from 23 to 28 April. In Rabat, Mr. Baker had been received by his Majesty King Hassan II and met with the Prime Minister, the Minister of the Interior and other senior officials of the Moroccan Government. In Tindouf, he met with Mr. Mohamed Abdelaziz, Secretary-General of the Frente POLISARIO, the Frente POLISARIO Coordinator with MINURSO, and other senior officials of the Frente POLISARIO. In Algiers and Nouakchott he was received by Presidents Liamine Zeroual and Maaouya Ould Sid' Ahmed Taya, respectively, and met with the Prime Ministers, the Ministers for Foreign Affairs and other senior government officials.

30. During the Personal Envoy's consultations in the Tindouf area, the Frente POLISARIO presented him with a list of 85 prisoners of war whom it proposed to release. The list has been communicated to the Government of Morocco and ICRC.

31. During his exploratory consultations with the parties and the two neighbouring countries, the Personal Envoy had stressed that he had come to make a fresh assessment of the situation and to discuss with all concerned ways of breaking the current stalemate. Mr. Baker expressed his intention to return to the region in June, after which he would report to the Secretary-General on his findings and recommendations.

32. Stressing that six years had elapsed since the establishment of MINURSO with the aim of holding a referendum of self-determination in Western Sahara and reiterating that the international community had made it clear that it could not continue to support the extension of MINURSO's mandate indefinitely unless the parties demonstrated in a clear and tangible manner the political will necessary to take decisions that would bring about a fair and lasting solution to the problem of Western Sahara, the Secretary-General urged them to cooperate fully with his

Personal Envoy. Noting that he would be in a position thereafter to submit a comprehensive report on all aspects of the Western Sahara issue, the Secretary-General recommended a four-month extension of MINURSO's mandate until 30 September 1997.

33. In its resolution 1108 (1997) of 22 May 1997, the Security Council reiterated its commitment to the holding of a referendum in accordance with the settlement plan. It urged the parties to continue cooperating with the Personal Envoy of the Secretary-General in his mission as outlined by the Secretary-General, requested the Secretary-General to keep the Council informed of progress in the situation and to submit, by 15 September 1997, a comprehensive report on the results of his evaluation of all aspects of the Western Sahara issue. It decided to extend the mandate of MINURSO until 30 September 1997.

34. The Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples considered the question of Western Sahara on 6 June 1997. During its consideration of the question, the Special Committee had before it a working paper containing information on developments concerning the Territory.[8]

35. Following Mr. Baker's mission to the region, the Secretary-General asked the Government of Morocco and the Frente POLISARIO as well as the two neighbouring countries, Algeria and Mauritania, to send their representatives to meet with my Personal Envoy separately, in London, on 10 and 11 June. During those meetings, Mr. Baker informed the Government of Morocco and the Frente POLISARIO that he had concluded that the only way to assess the implementability of the settlement plan would be by arranging direct talks between them, under United Nations auspices, to address the obstacles in the implementation of the plan. He explained to them that the talks, which would start on 23 June in Lisbon, would be private, would not constitute an international conference and would continue for as long as he felt that there was progress. The Governments of Algeria and Mauritania were also invited as observers and to attend the discussions of the parties on issues directly affecting them.

36. The parties were further informed that, during the talks, the Personal Envoy would make suggestions and offer ideas to facilitate their work, including bridging proposals to their differences in order to try and eliminate deadlocks. However, he would have no power to impose solutions on them, or to veto agreements reached by them. It was agreed with the parties that complete confidentiality would be maintained and that no issue would be considered as finally agreed until all outstanding issues had been agreed.

37. While in London, the Personal Envoy asked each party to make a concession to demonstrate its goodwill. The Government of Morocco agreed to defer the identification of about 60,000 applicants whose eligibility had been contested by the Frente POLISARIO. In return, the Frente POLISARIO agreed to return to the identification process. In addition, both parties agreed to allow UNHCR to start its preparatory work in the refugee camps as well as in the Territory.

38. The first official direct contact between Morocco and the Frente POLISARIO under United Nations auspices was held at Lisbon on 23 June. The discussion started with the subject of identification, which was the primary issue which had deadlocked the implementation of the settlement plan, but with the understanding that nothing would be considered as finally agreed until all outstanding issues had been agreed. The delegations of Algeria and Mauritania were kept fully briefed on developments. Since both sides indicated that they needed to consult with their principals before responding to the Personal Envoy's proposal, the Lisbon meeting was adjourned on the second day. However, both parties gave their responses to the Personal Envoy within the following 48 hours.

39. On 19 and 20 July, the second round of direct talks was held in London. Algeria and Mauritania attended as previously. During the London talks, agreement was reached that on the identification of prospective voters, no party would present candidates from certain contested tribal groupings. The parties also reached agreement that the Secretary General's Acting Special Representative would inform the parties of the results by number of the identification process to date and the parties agreed on the circumstances in which oral testimony would be used.

40. On the question of refugees, the parties agreed that UNHCR should begin taking the steps preparatory to the process of repatriation of the refugees in accordance with the settlement plan. In addition, they agreed to cooperate with UNHCR in implementation of the repatriation programme in accordance with UNHCR's normal practice and established principles of repatriation. The parties agreed to hold another round of talks at Lisbon on 29 and 30 August to continue their discussions on troop confinement and to discuss prisoners of war and political detainees.

41. During that round, the parties agreed that the Moroccan armed forces would be reduced and confined strictly in accordance with the provisions of the settlement plan. The parties, as well as Algeria and Mauritania, agreed

that Frente POLISARIO forces would be confined in locations and numbers designated by the Special Representative of the Secretary-General; however, no more than 2,000 individuals might be confined on the Territory of Western Sahara east of the berm and no more than 300 in Mauritania. Frente POLISARIO forces over and above the number designated by the Special Representative for confinement in Western Sahara and Mauritania would be confined in Algeria. The locations for confinement in Algeria and Mauritania would be identified in coordination with Algerian and Mauritanian authorities. It was further agreed that the compromise agreement on the confinement of Moroccan and Frente POLISARIO troops would in no way change, alter or otherwise affect the internationally recognized boundaries of Western Sahara.

42. On the question of prisoners of war, the two parties agreed that all remaining prisoners of war would be released in strict conformity with the provisions of the settlement plan and that the parties would cooperate with ICRC until completion of the work under the plan. With respect to the political prisoners and detainees, the two parties agreed that any and all Saharan political detainees would be released, pursuant to the amnesty envisaged in the settlement plan, before the beginning of the referendum campaign and that they would fully cooperate with the Independent Jurist in carrying out his duties.

43. While in Lisbon, the Secretary-General's Personal Envoy also opened talks between the parties on the code governing their conduct during the referendum campaign. Following a general discussion on the question, the Personal Envoy decided to adjourn the talks as the Moroccan delegation was not sufficiently prepared to provide detailed comments on the code. An agreement was reached to hold the next round at Houston, Texas, on 14 September, with a view to reaching an agreement on the code and related issues.

44. On 12 September 1997, in his letter to the President of the Security Council,[9] the Secretary-General proposed that, in view of the forthcoming Houston round and in order to take the necessary account of the results of the meeting and undertake a proper evaluation of the situation, he submit during the second half of September the report which had been requested by the Council in its resolution 1108 (1997) of 22 May 1997.

Notes

[1] S/1996/913.

[2] S/21360 and S/22464 and Corr.1.

[3] S/1996/973.

[4] S/1997/166.

[5] S/1997/208.

[6] S/1997/358.

[7] S/1997/234.

[8] A/AC.109/2087.

[9] S/1997/721.